

**MINUTES OF THE
ARIZONA STATE BOARD OF TECHNICAL REGISTRATION
1110 West Washington, Conference Room #240
Phoenix, AZ 85007**

**Tuesday, January 28, 2014
9:00 a.m.
OPEN SESSION**

1. CALL TO ORDER

- 2. ROLL CALL** - Board Members in attendance: Edward T. Marley, LeRoy Brady, Jason K. Madison, Douglas T. Whitneybell, Erick Weiland, Robert Stanley and Douglas Folk, Stuart R. Lane, Alejandro Angel, Ph.D. Staff: Melissa Cornelius, Lorraine Brown, Manuel Maltos, Patrice Pritzl and Eric Blake. Assistant Attorney General: Elizabeth Campbell.

3. CALL TO THE PUBLIC

Roger Score and Russell Roberts addressed the Board.

4. ADOPTION OF MINUTES

Review, Consideration, and Possible Action on the following:

- A. Mr. Lane moved to approve December 17, 2013 minutes with minor corrections. Mr. Stanley seconded. No discussion, motion carried.
- B. Mr. Folk moved to approve the December 17, 2013 Executive Session minutes. Mr. Stanley seconded. No discussion, motion carried.

5. ENFORCEMENT MATTERS

Review, Consideration and Possible Vote on the following:

A. Proposed Dismissals:

- 1. P14-014, Johnson Controls Inc.

Mr. Folk moved to dismiss the case because of no violation. Mr. Weiland seconded. No discussion, motion carried.

B. Proposed Consent Agreements or Take Other Action:

Mr. Lane moved to place cases 5.B.2, 5.B.4, 5.B.5, and 5.B.6 on the Consent Agenda. Mr. Marley pulled 5.B.7 for discussion. Mr. Stanley seconded. After brief discussion, motion carried.

- 2. A13-014, Paramount Design & Consulting, Howard C. Li, Nonregistrants
- 4. M11-012, Mahdi M. Sadek, P.E. (Civil) #38801
- 5. M11-040, RAL Consulting, Inc., Jay E. Turk (Nonregistrants)
- 6. M13-008, Donald L. Jenkins, Nonregistrant

Removed from the Consent Agenda and discussed individually:

1. A13-005, Jesus G. Castro, Architect #20113

Mr. Stanley moved to pend the motion for 30 days. Mr. Lane seconded. No discussion; motion carried.

3. DL14-001, Corinne H. Berrey, Nonregistrant

Mr. Folk moved to direct Staff to revise the Consent Agreement to remove civil penalties and require the Respondent to discontinue activity until the property has been remediated and approve Consent Agreement as amended. Mr. Lane seconded. No discussion; motion carried.

7. P14-022, Attalus Consulting Group, L.L.C., Ronald S. Francia, Nonregistrants

Mr. Lane moved to accept the Consent Agreement. Mr. Stanley seconded. No discussion; motion passed. Mr. Lane moved to forward information to AG's Office for further action as appropriate. Mr. Stanley seconded. No discussion; motion carried.

C. Discussion, Consideration, and Possible Action on the following:

1. A14-001, Oscar E. Bluth, Nonregistrant

Mr. Lane moved to go into Executive Session at 2:18 pm to obtain legal advice. Mr. Brady seconded. The Board returned back to regular session at 2:34 pm. Mr. Lane moved to pend this matter until the February Board meeting. The Board directed Staff to obtain additional information and question the business owner regarding the concerns, The Board further directed Staff to notify Mr. Bluth that this matter will be on the February agenda. Mr. Folk seconded. No discussion; motion carried.

2. A14-002, Christian A. Bluth, Nonregistrant

Mr. Lane moved to pend this matter until the February Board meeting. The Board directed Staff to obtain additional information and question the business owner regarding the concerns, The Board further directed Staff to notify Mr. Bluth that this matter will be on the February agenda. Mr. Folk seconded. No discussion; motion carried.

3. M06-125, Edwin N. Nagy, P.E. (Structural) #37926

Mr. Weiland moved to include an addendum to the Consent Agreement which will retract the need for a peer review and will include a restriction on structural engineering practices involving vehicular bridges. Mr. Madison seconded. No discussion, motion carried.

4. P14-019, Gerald L. Clark, Architect #32055

Mr. Folk and Mr. Whitneybell recused themselves because of a conflict of interest. Mr. Stanley moved to reoffer the Consent Agreement to Respondent removing the payment of \$22,000 but placing Mr. Clark's registration on probation until he has made full payment. If Mr. Clark declines the Consent Agreement, the Board directed Staff to return the matter to the Board to consider for formal hearing. Discussion and motion carried.

5. P14-038, Daniel M. Watson, Architect #23543

Mr. Weiland moved to dismiss. Mr. Madison seconded. No discussion; motion

carried.

6. P14-041, Robert J. Wong, P.E. (Electrical) #14930

Mr. Weiland moved to dismiss. Mr. Stanley seconded. No discussion; motion carried.

7. P14-042, Norman W. Wisner, Land Surveyor #12900

Mr. Lane moved to pend the matter until the February meeting and directed staff to obtain more information on the conviction of trespass, to include a detailed explanation and court records. Mr. Weiland seconded. No discussion; motion carried.

8. P14-043, John S. Wise, P.E. (Civil) #16738

Mr. Madison moved to have Staff issue a Letter of Concern for failing to disclose a conviction on renewal application. Mr. Stanley seconded. No discussion and motion carried.

D. Formal Administrative Hearing- *TIME SPECIFIC SCHEDULE FOR 9:00 AM*

1. M06-302, Kevin R. Ashby, P.E. (Civil) #35873

The Board held a Formal Administrative Hearing in the matter of Kevin R. Ashby holder of registration number 35873 as a professional engineer (civil) in the State of Arizona. Registrant was present and represented himself. Elizabeth Campbell, Assistant Attorney General, presented the State's position. Christopher Munns, Office of Solicitor General, provided independent legal counsel to the Board.

Mr. Folk moved that the State did not carry its burden of proof on factual allegation paragraph 1 but did so carry its burden of proof on factual allegations paragraph 2, 3, and 4 and moved they be adopted by the Board. Dr. Angel seconded. Discussion; motion passed after roll call vote yay Mr. Weiland, Mr. Brady, Dr. Angel, Mr. Marley, Mr. Lane, and Mr. Folk. Nay Mr. Madison, Mr. Stanley, and Mr. Whitneybell.

Dr. Angel moved that Registrant failed to apply the technical knowledge and skill which would be applied by other qualified registrants who practice in the same profession in the same area and at the same time as required by A.A.C R4-30-301(6) and also violated Board statute A.R.S § 32-128(C)(4). Mr. Folk seconded. No discussion; motion passed.

Mr. Folk moved to impose a \$500.00 administrative penalty, cost of investigation, and a Letter of Reprimand. Mr. Lane seconded. No discussion; motion passed after roll call vote yay Mr. Marley, Mr. Weiland, Mr. Whitneybell, Mr. Folk, Dr. Angel, Mr. Lane, Mr. Brady, Mr. Madison and Nay Mr. Stanley.

E. Discussion, Consideration and Action

(Deem Allegations Admitted and Issue Board Order)

1. M12-055, Christopher A. White, Nonregistrant
CW Global Consulting, Nonregistered Firm

Mr. Madison recused himself from the case for conflict of interest. Mr. Lane moved to deem allegations are admitted. Mr. Folk seconded. No discussion;

motion carried. Mr. Lane moved to adopt as conclusions of law those alleged violation in the Complaint and Notice of Hearing 1-7. Mr. Folk seconded. No discussion; motion carried. Mr. Lane moved to impose a Civil Penalty of \$2,000.00 for each of the six violations. Mr. Folk seconded. No discussion, motion carried.

6. LICENSING MATTERS

- A. Review, discuss and adopt the Final Board Order In the Case of Timothy Fortunato, Home Inspector Application #130585.
Mr. Lane moved to adopt the Final Board Order to grant Home Inspector certification to Timothy Fortunato, Home Inspector Application #130585. Mr. Stanley seconded. No discussion; motion carried.
- B. Rowles, Deirdre - AIT Applicant # 030195
Mr. Marley moved to deny request and close. It was noted that the applicant can reapply for ARE and IDP. Mr. Brady seconded. No discussion; motion carried.
- C. Brown, Christopher - Architect Application # 071569
Mr. Weiland moved to deny request and close. It was noted that the applicant can reapply for ARE and IDP. Mr. Brady seconded. No discussion; motion carried.

7. LICENSING CONSENT AGENDA

- A. Review, Consideration, and Action on the Evaluation Committee and Staff Recommendations for the following (Lists of names available at the Board's office for public review):
 - 1. Granting professional registrations, certifications or in-training designations pursuant to A.R.S. §§ 32-122.01, 32-123;
 - 2. Granting approval to applicants to sit for the professional or in-training examinations pursuant to A.R.S. § 32-122;
 - 3. Granting professional registrations to those applicants possessing NCARB Blue Cover or NCEES Model Law Engineer certifications, pursuant to A.R.S. § 32-122.01, and § 32-123;
 - 4. Granting professional registrations, certifications or in-training designations or authorizations to test to those applicants who disclosed minor criminal history that has no reasonable relationship to the applicant's proposed area of practice or who disclosed lesser disciplinary action taken against their registrations in other jurisdictions, pursuant to A.R.S. §§32-122, 32-122.01 and § 32-123;
 - 5. Administratively closing professional or in-training applications pursuant to A.R.S. §§ 32-122, 32-122.01(A); A.A.C. R4-30-204(E);
 - 6. Deny Certification to Alarm Controlling Persons and Alarm Agents pursuant to A.R.S. § 32-122.07;
 - 7. List of Alarm firm and Alarm Agent certifications granted by the Executive Director pursuant to A.R.S. § 32-122.05 and A.R.S. § 32-122.06.

7.A.6 - Mr. Whitneybell moved to approve 7.A Licensing Consents but pull from 7.A.6 Kevin Neel, Alarm Agent Applicant #132732 and Jesus Oros Jr, Alarm Agent Applicant #132155 and moved to Grant Certification. Remove Ramon Flores, Alarm Agent Applicant, #133074 from 7.A.4. Mr. Brady seconded. No discussion; motion carried.

8. REVIEW, CONSIDERATION AND ACTION ON THE FOLLOWING:

- A. Registrations that have been expired for three years and recommended for cancellation: See Board for the list
Mr. Lane moved to cancel registrants on list 8.A. Mr. Whitneybell seconded. No discussion; motion carried.
- B. Certifications that have been expired for one year and recommended for cancellation: See Board for the list
Mr. Lane moved to cancel certifications listed in 8.B. Mr. Whitneybell seconded. No discussion; motion carried.

9. POLICY MATTERS

Review, Consideration, and Possible Action on the following:


- A. Presentation to the Board by Jerry Carter, Executive Director, NCEES.
Mr. Carter provided a brief presentation to the Board.
- B. Whether to refund, credit, or take some other action, and establish a policy regarding alarm industry activation/renewal fees charged prior to the November 2013 Board Meeting.
Mr. Score, president of Arizona Alarm Dealers Association addressed the Board. Mr. Whitneybell moved to go into Executive Session for legal advice at 3:25pm. Mr. Brady seconded. No discussion; motion carried. The Board returned to regular session at 3:51pm. Mr. Marley moved to send out letters to applicants letting them know about the refund of the \$65.00 application fee to qualifying persons and directed staff, to notify an agent that wants a credit rather than refund to reply to the Board in 21 days or a check will be sent out rather than a credit. Staff will post additional information on the website about the refund process. Mr. Folk seconded. No discussion; motion carried.
- C. Review and Approve the Agenda for the February 11, 2014 Strategic Planning Meeting.
Mr. Marley moved to change the start time to 8:00 am, move "Ron Tribute" to the February 25, 2014 Board Meeting, and include the definition of survey practice to the discussion. Mr. Lane seconded. No discussion; motion carried.
- D. Whether to issue a second letter, policy statement or take some other action regarding the public use of job titles containing generic terms such as "engineer," or "architect".
Mr. Marley moved to defer to the planning session.
- E. Review, discussion and action regarding HB 2298 which proposes to modify A.R.S. § 32-144(E) and create a list of registrants (home inspectors and architects) who are not allowed to advertise as such without registration.
Mr. Stanley moved to have Director Cornelius oppose HB 2298. Mr. Lane seconded. No discussion; motion carried.

- F. Review, discussion and action regarding HB 2123, which proposes to change the word “engaged” to “registered” in A.R.S. § 32-127(H).
Mr. Folk moved to oppose the HB 2123. Mr. Madison seconded. No discussion; motion carried.
 - G. Legal Advice for Members regarding conducting formal hearings. *The Board may go into Executive Session to receive this advice, pursuant to A.R.S. § 38-431.03(A)(3).*
Assistant Attorney General Elizabeth Campbell addressed the Board. No action taken.
 - H. Review, discussion and direction to staff regarding HB 2360, which proposes to define architect, engineer, geologist, land surveyor and landscape architect practice and design professionals.
Mr. Weiland moved to take no action. Mr. Madison seconded. No discussion; motion carried.
10. **DIRECTOR’S REPORT** – Director Cornelius updated the Board about the recent workshop to update the Land Surveyor and Geological Engineering exams by Jack Warner. Director Cornelius reviewed her written report and highlighted follow up work on previous issues.
11. **BOARD CHAIR’S REPORT** – Mr. Marley reviewed his written report and highlighted some issues.
12. **STANDING COMMITTEE REPORTS**
- A. Legislation and Rules Committee – Meeting February 20, 2014 at 10:00 am.
 - B. Home Inspector Rules and Standards Committee - Meeting February 4, 2014 at 9:30 am.
 - C. Environmental Remediation Rules and Standards Committee – No meetings to report.
13. **BOARD MEMBER REPORTS ON OUTSIDE ACTIVITIES**
- A. National Council of Examiners for Engineering and Surveying (“NCEES”)
Mr. Madison will be attending a meeting in March in Lincoln, NE.
 - B. National Council of Architectural Registration Boards (“NCARB”)
Mr. Marley will be attending a Summit in March.
 - C. Council of Landscape Architectural Registration Boards (“CLARB”)
Mr. Brady advised of no meetings coming up.
 - D. National Association of State Boards of Geology (“ASBOG”)
Mr. Weiland reported that he is considering running for Secretary of ASBOG.
 - E. Public Member News/Information
Mr. Folk had nothing to report.
14. **FUTURE BOARD MEETINGS** – Tuesday, February 25, 2014 at 9:00 a.m.
15. **SUGGESTED TOPICS FOR FUTURE MEETING AGENDAS.**

16. **ADJOURNMENT** – Meeting adjourned 4:41 p.m.



Edward Marley, Chairman



Melissa Cornelius, Executive Director